

C/m

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ALLIANCE MORTGAGE BANKING CORP.,

MEMORANDUM AND ORDER

Plaintiff,

CV 06-4768

-against-

(Wexler, J.)

JOSEPH HUGGINS, et al.,

Defendants.
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APPEARANCES:

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EASTERN DISTRICT OF NEW YORK
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WEXLER, District Judge

This is a motion to set aside the court's dismissal of this action for failure to prosecute.

For the reasons set forth below, the motion is granted.

This case is a foreclosure action that was commenced in New York State Court. It was thereafter removed to this court by the United States Attorney's Office on the ground that property sought to be foreclosed is the subject of a criminal forfeiture action. That action, United

States v. Nebel, CR 05-0886 (LDW), is presently pending before this court. After removal, the Plaintiff filed a claim in the forfeiture action. Plaintiff has taken no further action in this case because of the pending criminal forfeiture action and its participation therein. Plaintiff has set forth its intention to pursue its rights but explain that there has been no activity here because of the ongoing criminal proceeding and the desire to conserve judicial resources and attorneys' fees.

Upon consideration of the Plaintiff's submission herein, the court concludes that Plaintiff has properly demonstrated that there is no intention to abandon this case and that it is actively pursuing its interest in this matter. The court therefore sets aside its order of September 29, 2008, dismissing this case for failure to prosecute. In light of the ongoing related criminal proceeding, however, the court will order that this case be closed, without prejudice to re-opening upon notification that the related criminal proceeding has been concluded.

SO ORDERED:

LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Central Islip, New York
November 6, 2008